

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KENNETH WALTON,

Case No. 09-13622

Plaintiff,

HONORABLE SEAN F. COX  
United States District Judge

v.

SANDRA CICIRELLI

Defendant.

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ORDER OF DISMISSAL

Plaintiff Kenneth Walton (“Walton”) has filed this *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983.

Walton’s complaint [Doc. No. 1] seeks to assert § 1983 claims against the Hon. Sandra Cicirelli, of the 18<sup>th</sup> District Court of Michigan, for alleged wrongs suffered by Walton in connection with a criminal case against him. The substance of Walton’s complaint appears below:

I Kenneth Walton was wrong(s) (*sic*) by permanent word(s) and Docket No. 06-115404; appear and continues to exist diminishing plaintiff (*sic*) ability to make a living.

Wrong(s)

1. Prosecutorial vindictiveness<sup>1</sup>
2. Plea offer violation
3. Order of action loss of driving privileges
4. Subordinate (*sic*) perjury

Plaintiff have (*sic*) suffer greatly from this mental shock, cause (*sic*) by Judge Sandra A. Cicirelli, to immediately return his personal property that was

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<sup>1</sup> Walton did not sue the prosecutor associated with his criminal case.

unconstitutional (*sic*) taken under Case No. 06-115404.

[Pl.'s Complaint, Doc. No. 1]. Walton also seeks a money judgment against the Hon. Sandra Cicirelli in the amount of \$10,000,000.00 per claimed violation. *Id.*

Walton has been granted *in forma pauperis* status. Pursuant to 28 U.S.C. § 1915(e)(2), a district court may *sua sponte* dismiss an *in forma pauperis* complaint before service on the defendants if the court determines that the action “is frivolous or meritless.” 28 U.S.C. § 1915(e)(2); *Harris v. Johnson*, 784 F.2d 222, 223 (6th Cir. 1986).

A complaint may be dismissed as frivolous “where it lacks an arguable basis either in law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Sullivan v. Ford*, 828 F.Supp. 480, 481 (E.D.Mich. 1993). A complaint for damages is frivolous as to defendants who are clearly immune from damages. *Sullivan*, 828 F.Supp. at 482 (citing *Neitzke*, *supra*).

Here, Walton seeks to recover § 1983 damages based upon alleged actions taken by the Hon. Sandra Cicirelli in her official capacity as a judge of the 18<sup>th</sup> District Court of Michigan. It is well established, however, that judges enjoy absolute immunity from § 1983 liability for actions allegedly taken in their official capacity. *Pierson v. Ray*, 386 U.S. 547 (1967). Therefore, Walton’s complaint is frivolous.

Accordingly, **IT IS ORDERED** that, pursuant to 28 U.S.C. § 1915(e)(2), this action is hereby **DISMISSED** as frivolous.

**IT IS SO ORDERED.**

S/Sean F. Cox  
Sean F. Cox  
United States District Judge

Dated: September 23, 2009

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PROOF OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record  
on September 23, 2009, by electronic mail and by ordinary mail upon:

Kenneth Walton  
2139 Walnut  
Inkster, MI 48141

S/Jennifer Hernandez  
Case Manager